IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

-

WRIT PETITION No.30973 of 1998

Between:

S.V. Ramana Rao, S/o S.V. Varada Rao
Head Master, M.K.R. High School, Indukurpet,
Nellore District.

..... PETITIONER

AND

1 A. Venkata Reddy
M.K.R. High School, Indukurpet,
Nellore District.
2 District Educational Officer, Nellore District.
3 Regional Joint Director of School Education, Guntur
4 Sri M.S. Amanullah,
M.K.R. High School, Indukurpet,
Nellore District.
5 Commissioner and Director of School Education,

Government of A.P., Hyderabad
6 Secretary to Government, Education Department,
A.P. Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction in the nature of a Writ calling for the records pertaining to the proceedings Rc.No.12/97 dt: 14-7-1997 and Rc.No.12/97-1 dt: 19-7-1997 of the 1st respondent and proceedings Rc.No.5740/A3/97 dt: 11-11-1997 of the 3rd respondent and direct the respondents herein to reinstate the petitioner herein into service treating the period from 19-7-1997 to the date of joining of the petitioner in duty as duty with full pay and allowance; fix the pay of the petitioner in Revised Scales of Pay 1992 w.e.f.1-7-1992 and pay arrears of such pay fixation and regularise the

period of suspension from 9-6-92 to 21-4-1997 as duty with full pay and allowances by quashing the proceedings of the 1st respondent dt: 14-7-1997 & 19-7-97 by declaring the same as arbitrary, illegal and unconstitutional violative of Article 311 (2) 14, 16 and 21 of the Constitution of India.

Counsel for the Petitioner: Mr. G.VIDYASAGAR

Counsel for Respondent No.1: Mr. S.SIVA SHANKER

Counsel for Respondents 2,3,5&6: G.P. FOR SCHOOL EDUCATION

Counsel for Respondent No.4: None appeared

The Court made the following :

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Order dated 14-7-1997 of the 1st respondent and also the Order dated 11-11-1997 of the 3rd respondent as arbitrary and illegal and consequently to treat the suspension period from 9-6-1992 to 21-4-1993 and from 19-7-1997 to 22-11-1998 as on duty and also to fix the pay of the petitioner in the revised pay scales of 1992 with effect from 1-7-1992 and pay arrears of such fixation.

I have heard the learned counsel on either side and perused the entire material made available on record.

The petitioner was suspended from service twice alleging certain misconduct against him. In the first instance, he was suspended from service on 19-6-1992 and reinstated on 21-4-1993 without conducting any enquiry into the matter, after submitting explanation to the charges framed against him. In the second instance, he was suspended on 19-7-1997 pending enquiry into certain charges levelled against him, after submitting a detailed explanation by him. No further enquiry was ordered into the matter and he was reinstated into service on 22-11-1998. Admittedly, no such enquiry was conducted by appointing an Enquiry Officer into the matter. Therefore, it must be deemed that the petitioner has been absolved of the charges. However, these two periods were not regularized, though the petitioner was paid subsistence allowance during that period. Ultimately, the petitioner also retired from service on 31-1-2004. Therefore, nothing remains to be decided by the authorities.

In view of the above and also in view of the assertion in the counter affidavit filed on

behalf of respondents 2,3,5 and 6 that the dispute had arisen between the Correspondent of the School and the petitioner, the Correspondent of the School had issued suspension orders twice during 1992 and 1997 duly framing various charges and the Correspondent has not followed the provisions of the A.P. Education Act,1982 and the Rules framed thereunder and also the instructions by the Department from time to time scrupulously while issuing the orders of suspension, it must be deemed that though the petitioner was suspended twice, it was not his fault and there was something wrong with the 1st respondent-Correspondent of the School. In view of the above, since it is an admitted fact that during those periods, the petitioner was suspended and also he was paid with subsistence allowance, he is entitled for regularization of those periods for the purpose of payment of salary, pension and other retiral benefits. The respondents are directed to treat the periods of suspension of the petitioner from 9-6-1992 to 21-4-1993 and 19-7-1997 to 22-11-1998 as on duty and pay the salary for the said period and also settle his retiral benefits and pension, within a period of three months from the date of receipt of a copy of this order.

With the above directions, the Writ Petition is disposed of. No order as to costs.

11-7-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 A. Venkata Reddy
M.K.R. High School, Indukurpet,
Nellore District.
2 District Educational Officer, Nellore District.
3 Regional Joint Director of School Education, Guntur

4 Sri M.S. Amanullah,
M.K.R. High School, Indukurpet,
Nellore District.
5 Commissioner and Director of School Education,

Government of A.P., Hyderabad
6 Secretary to Government, Education Department,
A.P. Secretariat, Hyderabad

7 2 CCs to Govt.Pleader for School Education, High Court Buildings, Hyderabad (OUT).

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